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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,644	08/30/2001	Dennis W. Smith	CXU-363	9437

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EXAMINER

ANGEBRANNDT, MARTIN J

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

12

Advisory Action

Application N .

09/943,644

Applicant(s)

SMITH ET AL.

Examiner

Martin J Angebrannt

Art Unit

1756

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.


3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1,2,5-16,18,19,22-26,28,29 and 33-44.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Martin J Angebrannt
Primary Examiner
Art Unit: 1756

Continuation of 3. Applicant's reply has overcome the following rejection(s): The 112 rejection of claim 28 is withdrawn and the objections to the specification. The rejection under 35 USC 102 over Shaw et al. in polymer preprints is withdrawn..

Continuation of 5. does NOT place the application in condition for allowance because: It would have been obvious to spin coat the solutions disclosed based upon the disclosure of spin coating onto a substrate and these inherently form a waveguiding layer with air in lieu of an upper cladding. There is ample motivation to use the co-polymer in this manner in the reference. The fact that it is not exemplified only removes the anticipation. The examiner notes that some of the solvent will have evaporated prior to casting unless it is immediately spin coated after mixing the monomers. The applicant argues that spin coating is not taught. The examiner points out that "spin-coated" is specifically recited in the reference on page 1293, in the right hand column. Therefore this position is in error. When coating a single film, these can only be the core of a waveguide, since another core material would have to be described for this to be a cladding. The examiner notes that the art of record teaches the homopolymers as being known core materials in the art and Fischbeck et al. specifically exemplifies TVE-PFCB polymers as the core materials. The examiner cannot find the portions of the Shah et al. or Smith et al. references which describe these as cladding materials. Therefore the position is factually unsupported. In the Babb et al. references the polymer film is held to inherently be a waveguiding material with air in lieu of a cladding. This is a film alone and therefore cannot be a cladding. The arguments that none of the references teach spin coating of films of more than 50% monomer is entirely without merit based upon the disclosures of Kennedy et al. '782 with respect to table 5 and column 36, which specifically illustrate the effects of increased solids in the coating solution as well as the effects of spinning speed.

mf
7/2/03